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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

INTERNATIONAL FIDELITY INSURANCE
COMPANY,

Plaintiff and Appellant,

v.

TONY TOLANI et al.,

Defendants and Respondents.

C074340

(Super. Ct. No. SCV-0032679)

International Fidelity Insurance Company (IFIC) appeals from a partial denial of its motion, pursuant to Code of Civil Procedure section 386, subdivision (f), to enjoin further proceedings outside its interpleader action.¹ The trial court denied IFIC's request to stay the appeals of two related cases because IFIC had failed to provide authority for

¹ Further undesignated statutory references are to the Code of Civil Procedure.

the court to do so. IFIC contends this ruling was in error, asserting section 386, subdivision (f) allows a trial court to stay related appellate proceedings.

While this appeal was pending, we issued decisions in the two related cases that IFIC seeks to stay. Since the relief IFIC seeks is no longer available, its appeal is dismissed as moot.

BACKGROUND

This case is the latest of several cases before us, all based on events surrounding the failure of Highlands Hotel's luxury condominium development at Lake Tahoe. In connection with that development, IFIC had issued a surety bond to protect purchasers who made earnest money deposits, as required by state law. After Highlands Hotel was unable to deliver clear title to the condominiums, several purchasers sought the return of their deposits. A group of purchasers, the Tolani plaintiffs, filed suit against IFIC and obtained a judgment. Another purchaser, Ludek Fabinger, also obtained a judgment against IFIC. IFIC appealed from both of these judgments. (*Tolani et al. v. International Fidelity Insurance Company* (Aug. 13, 2014, C071354) [nonpub. opn.] & *Fabinger v. International Fidelity Insurance Company* (Aug. 18, 2014, C072328 [nonpub. opn.])

Other claimants asserted claims or filed suit against IFIC to recover under the surety bond.

Several months later, IFIC filed a verified complaint in interpleader.

About six months after filing the complaint in interpleader, IFIC filed a motion pursuant to section 386, subdivision (f) to enjoin further proceedings by defendants outside the interpleader action. IFIC requested that the trial court restrain all defendants from initiating or further prosecuting any other proceeding affecting the rights and obligation of the parties to the interpleader, including pursuing any writs of execution. IFIC further requested that the court stay all pending actions against IFIC with respect to the surety bond, including any appeals.

The trial court granted IFIC's motion in part. It issued an order "to restrain all parties to the interpleader action from instituting or further prosecuting any proceedings affecting the rights and obligations of the parties to this action with respect to the interpleaded funds, absent further order of this court. However, plaintiff's request that this court stay the appeals of judgments issued in favor of Fabinger and the Tolani defendants is denied, as plaintiff does not provide authority for the court's ability to make such an order."

IFIC appealed from this order.

About a month after appealing (and two months after the trial court's order), IFIC petitioned this court for a writ of mandate, prohibition, certiorari, or other appropriate relief. IFIC requested a stay of cases Nos. C071354 and C072328. This court denied the petition.

DISCUSSION

Section 386, subdivision (f) provides: "After any such complaint or cross-complaint in interpleader has been filed, the court in which it is filed may enter its order restraining all parties to the action from instituting or further prosecuting any other proceeding in any court in this state affecting the rights and obligations as between the parties to the interpleader until further order of the court."

IFIC contends the language "any other proceeding in any court in this state" permits the trial court to stay appellate proceedings because "any court" includes appellate courts.

By the time the briefing in this appeal was complete, the briefing in both case No. C071354 and case No. C072328 had been complete for some time. Our decisions in both cases have already been filed. (*Tolani et al. v. International Fidelity Insurance Company* (*supra*, C071354) & *Fabinger v. International Fidelity Insurance Company* (*supra*, C072328).)

Since the decisions have been filed, there is nothing to restrain and we cannot provide IFIC any relief. “[A] case becomes moot when a court ruling can have no practical effect or cannot provide the parties with effective relief. [Citation.]” (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 454.)

The duty of every judicial tribunal “ ‘is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it. It necessarily follows that when, pending an appeal from the judgment of a lower court, and without any fault of the defendant, an event occurs which renders it impossible for this court, if it should decide the case in favor of plaintiff, to grant him any effectual relief whatever, the court will not proceed to a formal judgment, but will dismiss the appeal.’ [Citations.]” (*Consol. etc. Corp. v. United A. etc. Workers* (1946) 27 Cal.2d 859, 863.)

DISPOSITION

The appeal is dismissed. Respondents shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1) & (2).)

DUARTE, J.

We concur:

BLEASE, Acting P. J.

ROBIE, J.